

Message Text

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ACTION EUR-12

INFO OCT-01 ISO-00 CIAE-00 DODE-00 PM-04 H-01 INR-07
L-03 NSAE-00 NSC-05 PA-01 PRS-01 SP-02 SS-15
USIA-06 IO-13 ACDA-07 OES-07 DLOS-09 TRSE-00 /094 W
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R 091200Z JUL 77
FM AMEMBASSY BONN
TO SECSTATE WASHDC 0000
USMISSION USBERLIN
INFO AMEMBASSY BERLIN
AMEMBASSY LONDON
AMEMBASSY MOSCOW
AMEMBASSY PARIS
USMISSION NATO
AMEMBASSY BRUSSELS

C O N F I D E N T I A L SECTION 01 OF 02 BONN 11379

USEEC

E.O. 11652: GDS
TAGS: PGOV, EEC, FR, GE, GW, UR, UK, US, WB
SUBJECT: EC/SOVIET FISHERIES NEGOTIATIONS: BERLIN
AND THE TERRITORIAL CLAUSE

REFS: (A) USBER 1763; (B) BONN 10880 AND PREVIOUS

BEGIN SUMMARY: THE JULY 5 BONN GROUP MEETING PRODUCED
ANOTHER DISCUSSION OF THE EC/SOVIET FISHERIES NEGOTIA-
TIONS. LONDON HAS WELCOMED FRENCH AND GERMAN WILLING-
NESS TO SEEK ALTERNATIVE FORMULATIONS OF THE TERRITORIAL
CLAUSE, AND EXPRESSED APPROVAL OF SEVERAL OF THE PRO-
POSALS. AT PRESENT, ONLY THE ORIGINAL EC PROPOSAL
(WHICH WAS REJECTED BY THE SOVIETS), THE RUSSIAN
"COCKTAIL FORMULA" AND THE FRANCO-GERMAN PROPOSAL
HAVE THE VIRTUE OF NOT HAVING BEEN REJECTED BY ANY OF
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THE BONN GROUP COUNTRIES. THE FRG IS PREPARED TO
PERMIT THE EC NEGOTIATORS TO AGREE TO THE "COCKTAIL
FORMULA" WITHOUT FURTHER REFERENCE TO CAPITALS.
HOWEVER, IT IS NOT PREPARED TO GRANT THE UK'S WISH FOR
THE EC NEGOTIATORS TO HAVE DISCRETION TO OFFER THE
SOVIETS THE FRANCO-GERMAN PROPOSAL WITHOUT REFERENCE
TO CAPITALS FOR INSTRUCTIONS ON TIMING OF PRESENTATION

NOR WILL THE FRG AGREE TO THE NEGOTIATORS ENGAGING IN
SUBSTANTIVE NEGOTIATIONS WITH THE SOVIETS WITHOUT
SPECIFIC INSTRUCTIONS. END SUMMARY

1. AT THE JULY 5 BONN GROUP MEETING, UK LEGAL ADVISER
(CHAMBERLAIN) SAID THAT LONDON HAD WELCOMED THE FRENCH
AND GERMAN WILLINGNESS TO SEEK ALTERNATIVE FORMULATIONS
FOR THE TERRITORIAL CLAUSE, AND HAD FOUND THE FRENCH,
GERMAN AND FRANCO-GERMAN VERSIONS ACCEPTABLE (TAGGED
FORMULATIONS C, F, AND G, RESPECTIVELY, IN REF B). IT
WAS FELT THAT ANY OF THE THREE WOULD INCREASE THE
NEGOTIATORS' TACTICAL FLEXIBILITY. LONDON HAD NOTED
AND ACCEPTED THE GERMAN AND AMERICAN OBJECTIONS TO THE
"AND OTHER RELEVANT AGREEMENTS" PHRASE IN THE BRITISH
VERSION.

2. EVEN THOUGH LONDON ALSO DOUBTED THAT THE SOVIETS
WOULD ACTUALLY PROPOSE A FORMULATION ALONG THE LINES
OF THEIR "COCKTAIL FORMULA," (I.E. THE DELETION OF
"AND UNDER THE CONDITIONS LAID DOWN IN THAT TREATY"
FORMULATION D, REF B), CHAMBERLAIN SAID WE SHOULD BE
PREPARED FOR IT. THE UK WOULD AGREE TO DELETION OF
THE PHRASE IF THE EC WOULD AGREE TO AN ENTRY INTO
THE COUNCIL MINUTES DEALING WITH THE UK'S RESERVATION
CONCERNING THE ISLE OF MAN, CHANNEL ISLANDS, AND
GIBRALTAR.
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3. CHAMBERLAIN SAID THAT THE ABSENCE OF
CHIEF SOVIET NEGOTIATOR ISHKOV REDUCED THE URGENCY OF
THE BONN GROUP'S CONSIDERATIONS, BUT THE NEXT ROUND
WOULD PROBABLY START BEFORE AUGUST. THE BRITISH
OBJECTIVES WERE TO REACH AGREEMENT THAT:

(1) IF THE SOVIETS PROPOSE THE COCKTAIL FORMULA,
THE COMMUNITY SHOULD ACCEPT IT; AND,

(2) IF THEY DO NOT, THE EC NEGOTIATORS SHOULD BE
ALLOWED, WHEN SUBSTANTIVE TALKS BEGIN ON THE TERRI-
TORIAL CLAUSE, TO USE ONE OF THE OTHER THREE VERSIONS
TO KEEP THE MATTER "IN PLAY" IN NEGOTIATIONS WITH THE
SOVIETS.

4. IN FURTHER DISCUSSION, HOWEVER, THERE WAS A CON-
SENSUS THAT OTHER THAN THE ORIGINAL EC PROPOSAL
(FORMULATION A) ONLY THE "COCKTAIL FORMULA" (FORMULA-
TION D) AND THE FRANCO-GERMAN PROPOSAL (FORMULATION G)
HAD NOT YET BEEN REJECTED BY ONE OR MORE OF THE BONN
GROUP COUNTRIES. COMMENT: AS EXPRESSED IN REF B,

WE STILL HAVE SOME RESERVATIONS ABOUT THE FRANCO-GERMAN
PROPOSAL BEING A CLAUSE WHICH COULD BE DEFENDED AS

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C O N F I D E N T I A L SECTION 02 OF 02 AMEMBASSY BONN 11379

CLEARLY APPLYING TO BERLIN. IN RESPONSE TO OUR
QUESTION, HOWEVER, THE FRG REP TOLD US AT THE MEETING
THAT THE FRG IS PREPARED TO ACCEPT IT. IN VIEW OF THE
FRG AND UK WILLINGNESS TO ACCEPT THE CLAUSE, WE DO
NOT BELIEVE THE US SHOULD BE THE ONLY ONE TO OPPOSE
IT. THE DEPARTMENT MAY WISH TO TAKE THIS INTO ACCOUNT
IN RESPONDING TO THE REQUEST FOR DEPARTMENTAL VIEWS
(REF B).

5. FRENCH REP (GAUSSOT) SAID THAT HE WOULD SEEK
INSTRUCTIONS FROM PARIS AS TO (1) WHETHER THE COCKTAIL
FORMULA, IF MADE, COULD BE ACCEPTED IMMEDIATELY BY
THE EC, (2) WHETHER THE WORDING OF THE FRANCO-
GERMAN VERSION IS ACCEPTABLE, AND (3) WHETHER THE EC
NEGOTIATORS SHOULD BE GIVEN FLEXIBILITY TO NEGOTIATE.

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6. THE US REP SAID HE DID NOT YET HAVE INSTRUCTIONS BUT RECALLED THE VIEWS EXPRESSED AT THE LAST MEETING AND NOTED USBER'S PRELIMINARY VIEWS ON THE VARIOUS FORMULATIONS (REF A).

7. GAUSSOT ASKED WHETHER THE GERMAN IDEA WAS TO WAIT FOR A SOVIET COUNTER-PROPOSAL BEFORE OFFERING ALTERNATIVE FORMULATIONS. FRG REP (HENZE) SAID THAT WAS SUBSTANTIALLY CORRECT, BUT THE FRG WOULD NOT INSIST ON A SOVIET COUNTER-PROPOSAL PER SE; AN EXPRESSION OF SOVIET WILLINGNESS TO ACCEPT A TERRITORIAL CLAUSE WOULD DO. THE FRG EXPERIENCE IN GIVING EC NEGOTIATORS FLEXIBILITY HAD, "MILDLY PUT, NOT BEEN VERY ENCOURAGING." HE FELT THAT THE SOVIETS WOULD TRY TO WEAR THE EC DOWN ON THE ISSUE. HOWEVER, VAN WELL HAD TOLD A HIGH-RANKING VISITOR (BRITISH AMBASSADOR WRIGHT) A FEW DAYS AGO THAT THE FRG WOULD PREFER TO SEE THE NEGOTIATIONS FAIL IF AGREEMENT COULD NOT BE REACHED ON AN ACCEPTABLE TERRITORIAL CLAUSE. HENZE SAID THAT THE FIRST AND MOST IMPORTANT THING TO BE DETERMINED IS WHETHER THE SOVIETS AGREE WITH THE CONCEPT OF A TERRITORIAL CLAUSE. IF THEY DO, AND THEN OFFER SPECIFIC OBJECTIONS TO CERTAIN WORDING, THE FRG WOULD BE WILLING TO EXAMINE THE MATTER. THEY MUST BE SHOWN THAT WE WILL NOT CHANGE OUR CLAUSE EVERY TIME THEY REJECT IT. IN OTHER WORDS, THE FRG WAS NOT PREPARED TO GIVE THE EC NEGOTIATORS DISCRETION IN OFFERING ALTERNATIVE FORMULATIONS.

8. FRG LEGAL ADVISER (DUISBERG) ADDED THAT THE PROPOSAL HAD ALREADY BEEN ON THE TABLE FOR FOUR MONTHS, SO THERE WAS NO NEED FOR THE EC TO FEEL COMPELLED TO RESPOND IMMEDIATELY WHEN THE SOVIETS OBJECT
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OR PROPOSE AN ALTERNATIVE WORDING. SHOULD THE SOVIETS MAKE A PROPOSAL, THE EC NEGOTIATORS COULD TELL THEM THEY WISHED TO GIVE THE PROPOSAL FURTHER CONSIDERATION. THE BONN GROUP COULD THEN MEET WITHOUT DELAY AND PROVIDE THE EC TEAMS WITH INSTRUCTIONS.

9. CHAMBERLAIN SAID HE WOULD REPORT THE FRG POSITION.

10. IN RESPONSE TO A QUESTION BY CHAMBERLAIN, HENZE SAID THAT THE FRG'S POSITION WAS THAT THE EC

NEGOTIATORS COULD ACCEPT THE FRANCO-GERMAN PROPOSAL
OR THE COCKTAIL FORMULA WITHOUT FURTHER REFERENCE TO
THE BONN GROUP. IF THE SOVIETS OBJECT TO AN EC PRO-
POSAL, WHETHER OR NOT THEY PROPOSE A NEW FORMULA, THE
FRG POSITION IS THAT THE SOVIETS SHOULD BE REQUIRED
TO SPECIFY THEIR OBJECTION AND THAT THE MATTER SHOULD
BE REFERRED TO THE BONN GROUP.
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Message Attributes

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